

FIRST REGULAR SESSION

SENATE BILL NO. 184

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WRIGHT-JONES.

Read 1st time January 26, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

1008S.02I

AN ACT

To repeal sections 160.400 and 160.405, RSMo, and to enact in lieu thereof two new sections relating to charter schools.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 160.400 and 160.405, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 160.400 and 160.405, to
3 read as follows:

160.400. 1. A charter school is an independent public school.
2
3 2. Charter schools may be operated only in a metropolitan school district
4 or in an urban school district containing most or all of a city with a population
5 greater than three hundred fifty thousand inhabitants and may be sponsored by
6 any of the following:

6 (1) The school board of the district;

7 (2) A public four-year college or university with its primary campus in the
8 school district or in a county adjacent to the county in which the district is
9 located, with an approved teacher education program that meets regional or
10 national standards of accreditation;

11 (3) A community college located in the district; or

12 (4) Any private four-year college or university located in a city not within
13 a county with an enrollment of at least one thousand students, and with an
14 approved teacher preparation program.

15 3. The mayor of a city not within a county may request a sponsor under
16 subdivision (2), (3), or (4) of subsection 2 of this section to consider sponsoring a
17 "workplace charter school", which is defined for purposes of sections 160.400 to
18 160.420 as a charter school with the ability to target prospective students whose
19 parent or parents are employed in a business district, as defined in the charter,

20 which is located in the city.

21 4. No sponsor shall receive from an applicant for a charter school any fee
22 of any type for the consideration of a charter, nor may a sponsor condition its
23 consideration of a charter on the promise of future payment of any kind.

24 5. The charter school shall be a Missouri nonprofit corporation
25 incorporated pursuant to chapter 355. The charter provided for herein shall
26 constitute a contract between the sponsor and the charter school.

27 6. As a nonprofit corporation incorporated pursuant to chapter 355, the
28 charter school shall select the method for election of officers pursuant to section
29 355.326 based on the class of corporation selected. Meetings of the governing
30 board of the charter school shall be subject to the provisions of sections 610.010
31 to 610.030, the open meetings law.

32 7. A sponsor of a charter school, its agents and employees are not liable
33 for any acts or omissions of a charter school that it sponsors, including acts or
34 omissions relating to the charter submitted by the charter school, the operation
35 of the charter school and the performance of the charter school.

36 8. A charter school may affiliate with a four-year college or university,
37 including a private college or university, or a community college as otherwise
38 specified in subsection 2 of this section when its charter is granted by a sponsor
39 other than such college, university or community college.

40 Affiliation status recognizes a relationship between the charter school and the
41 college or university for purposes of teacher training and staff development,
42 curriculum and assessment development, use of physical facilities owned by or
43 rented on behalf of the college or university, and other similar purposes. The
44 primary campus of the college or university must be located within the county in
45 which the school district lies wherein the charter school is located or in a county
46 adjacent to the county in which the district is located. A university, college or
47 community college may not charge or accept a fee for affiliation status.

48 9. The expenses associated with sponsorship of charter schools shall be
49 defrayed by the department of elementary and secondary education retaining one
50 and five-tenths percent of the amount of state and local funding allocated to the
51 charter school under section 160.415, not to exceed one hundred twenty-five
52 thousand dollars, adjusted for inflation. Such amount shall not be withheld when
53 the sponsor is a school district or the state board of education. The department
54 of elementary and secondary education shall remit the retained funds for each
55 charter school to the school's sponsor, provided the sponsor remains in good

56 standing by fulfilling its sponsorship obligations under sections 160.400 to
57 160.420 and 167.349 with regard to each charter school it sponsors, including
58 appropriate demonstration of the following:

59 (1) Expends no less than ninety percent of its charter school sponsorship
60 funds in support of its charter school sponsorship program, or as a direct
61 investment in the sponsored schools;

62 (2) Maintains a comprehensive application process that follows fair
63 procedures and rigorous criteria and grants charters only to those developers who
64 demonstrate strong capacity for establishing and operating a quality charter
65 school;

66 (3) Negotiates contracts with charter schools that clearly articulate the
67 rights and responsibilities of each party regarding school autonomy, expected
68 outcomes, measures for evaluating success or failure, performance consequences,
69 and other material terms;

70 (4) Conducts contract oversight that evaluates performance, monitors
71 compliance, informs intervention and renewal decisions, and ensures autonomy
72 provided under applicable law; and

73 (5) Designs and implements a transparent and rigorous process that uses
74 comprehensive data to make merit-based renewal decisions.

75 10. No university, college or community college shall grant a charter to
76 a nonprofit corporation if an employee of the university, college or community
77 college is a member of the corporation's board of directors.

78 11. No sponsor shall grant a charter under sections 160.400 to 160.420
79 and 167.349 without ensuring that a criminal background check and child abuse
80 registry check are conducted for all members of the governing board of the charter
81 schools or the incorporators of the charter school if initial directors are not named
82 in the articles of incorporation, nor shall a sponsor renew a charter without
83 ensuring a criminal background check and child abuse registry check are
84 conducted for each member of the governing board of the charter school.

85 12. No member of the governing board of a charter school shall hold any
86 office or employment from the board or the charter school while serving as a
87 member, nor shall the member have any substantial interest, as defined in
88 section 105.450, in any entity employed by or contracting with the board. No
89 board member shall be an employee of a company that provides substantial
90 services to the charter school. All members of the governing board of the charter
91 school shall be considered decision-making public servants as defined in section

92 105.450 for the purposes of the financial disclosure requirements contained in
93 sections 105.483, 105.485, 105.487, and 105.489.

94 13. A sponsor shall provide timely submission to the state board of
95 education of all data necessary to demonstrate that the sponsor is in material
96 compliance with all requirements of sections 160.400 to 160.420 and 167.349.

97 14. The state board of education shall ensure each sponsor is in
98 compliance with all requirements under sections 160.400 to 160.420 and 167.349
99 for each charter school sponsored by any sponsor. The state board shall notify
100 each sponsor of the standards for sponsorship of charter schools, delineating both
101 what is mandated by statute and what best practices dictate. The state board,
102 after a public hearing, may require remedial action for a sponsor that it finds has
103 not fulfilled its obligations of sponsorship, such remedial actions including
104 withholding the sponsor's funding and suspending for a period of up to one year
105 the sponsor's authority to sponsor a school that it currently sponsors or to sponsor
106 any additional school. If the state board removes the authority to sponsor a
107 currently operating charter school, the state board shall become the interim
108 sponsor of the school for a period of up to three years until the school finds a new
109 sponsor or until the charter contract period lapses.

110 **15. During any time in which powers granted to the board of**
111 **education of a metropolitan school district are vested in a special**
112 **administrative board, the special administrative board may sponsor a**
113 **charter school and declare itself as the local education agency of the**
114 **charter school for school funding purposes. If the special**
115 **administrative board is dissolved at any time, the charter school may**
116 **continue to operate provided it seeks and obtains a new sponsorship**
117 **under the new governing board of a metropolitan school district.**

160.405. 1. A person, group or organization seeking to establish a charter
2 school shall submit the proposed charter, as provided in this section, to a sponsor.
3 If the sponsor is not a school board, the applicant shall give a copy of its
4 application to the school board of the district in which the charter school is to be
5 located and to the state board of education, within five business days of the date
6 the application is filed with the proposed sponsor. The school board may file
7 objections with the proposed sponsor, and, if a charter is granted, the school
8 board may file objections with the state board of education. The charter shall
9 include a mission statement for the charter school, a description of the charter
10 school's organizational structure and bylaws of the governing body, which will be

11 responsible for the policy and operational decisions of the charter school, a
12 financial plan for the first three years of operation of the charter school including
13 provisions for annual audits, a description of the charter school's policy for
14 securing personnel services, its personnel policies, personnel qualifications, and
15 professional development plan, a description of the grades or ages of students
16 being served, the school's calendar of operation, which shall include at least the
17 equivalent of a full school term as defined in section 160.011, and an outline of
18 criteria specified in this section designed to measure the effectiveness of the
19 school. The charter shall also state:

20 (1) The educational goals and objectives to be achieved by the charter
21 school;

22 (2) A description of the charter school's educational program and
23 curriculum;

24 (3) The term of the charter, which:

25 (a) Shall be not less than five years, nor greater than ten years and shall
26 be renewable; **or**

27 **(b) For any charter school sponsored by the special**
28 **administrative board of a metropolitan school district, may be for a**
29 **period of two years and may be renewable. Should a charter school**
30 **sponsored by the special administrative board not perform to the**
31 **academic standards initially set out in the charter agreement with the**
32 **sponsor, the special administrative board, at the end of a two-year**
33 **term, may close the charter school and incorporate the charter school**
34 **into the metropolitan school district;**

35 (4) A description of the charter school's pupil performance standards,
36 which must meet the requirements of subdivision (6) of subsection 5 of this
37 section. The charter school program must be designed to enable each pupil to
38 achieve such standards;

39 (5) A description of the governance and operation of the charter school,
40 including the nature and extent of parental, professional educator, and
41 community involvement in the governance and operation of the charter school;
42 and

43 (6) A description of the charter school's policies on student discipline and
44 student admission, which shall include a statement, where applicable, of the
45 validity of attendance of students who do not reside in the district but who may
46 be eligible to attend under the terms of judicial settlements.

47 2. Proposed charters shall be subject to the following requirements:

48 (1) A charter may be approved when the sponsor determines that the
49 requirements of this section are met and determines that the applicant is
50 sufficiently qualified to operate a charter school. The sponsor's decision of
51 approval or denial shall be made within ninety days of the filing of the proposed
52 charter;

53 (2) If the charter is denied, the proposed sponsor shall notify the applicant
54 in writing as to the reasons for its denial and forward a copy to the state board
55 of education within five business days following the denial;

56 (3) If a proposed charter is denied by a sponsor, the proposed charter may
57 be submitted to the state board of education, along with the sponsor's written
58 reasons for its denial. If the state board determines that the applicant meets the
59 requirements of this section, that the applicant is sufficiently qualified to operate
60 the charter school, and that granting a charter to the applicant would be likely
61 to provide educational benefit to the children of the district, the state board may
62 grant a charter and act as sponsor of the charter school. The state board shall
63 review the proposed charter and make a determination of whether to deny or
64 grant the proposed charter within sixty days of receipt of the proposed charter,
65 provided that any charter to be considered by the state board of education under
66 this subdivision shall be submitted no later than March first prior to the school
67 year in which the charter school intends to begin operations. The state board of
68 education shall notify the applicant in writing as the reasons for its denial, if
69 applicable; and

70 (4) The sponsor of a charter school shall give priority to charter school
71 applicants that propose a school oriented to high-risk students and to the reentry
72 of dropouts into the school system. If a sponsor grants three or more charters,
73 at least one-third of the charters granted by the sponsor shall be to schools that
74 actively recruit dropouts or high-risk students as their student body and address
75 the needs of dropouts or high-risk students through their proposed mission,
76 curriculum, teaching methods, and services. For purposes of this subsection, a
77 "high-risk" student is one who is at least one year behind in satisfactory
78 completion of course work or obtaining credits for graduation, pregnant or a
79 parent, homeless or has been homeless sometime within the preceding six
80 months, has limited English proficiency, has been suspended from school three
81 or more times, is eligible for free or reduced-price school lunch, or has been
82 referred by the school district for enrollment in an alternative

83 program. "Dropout" shall be defined through the guidelines of the school core
84 data report. The provisions of this subsection do not apply to charters sponsored
85 by the state board of education.

86 3. If a charter is approved by a sponsor, the charter application shall be
87 submitted to the state board of education, along with a statement of finding that
88 the application meets the requirements of sections 160.400 to 160.420 and section
89 167.439 and a monitoring plan under which the charter sponsor will evaluate the
90 academic performance of students enrolled in the charter school. The state board
91 of education may, within sixty days, disapprove the granting of the charter. The
92 state board of education may disapprove a charter on grounds that the
93 application fails to meet the requirements of sections 160.400 to 160.420 and
94 section 167.349 or that a charter sponsor previously failed to meet the statutory
95 responsibilities of a charter sponsor.

96 4. Any disapproval of a charter pursuant to subsection 3 of this section
97 shall be subject to judicial review pursuant to chapter 536.

98 5. A charter school shall, as provided in its charter:

99 (1) Be nonsectarian in its programs, admission policies, employment
100 practices, and all other operations;

101 (2) Comply with laws and regulations of the state, county, or city relating
102 to health, safety, and state minimum educational standards, as specified by the
103 state board of education, including the requirements relating to student discipline
104 under sections 160.261, 167.161, 167.164, and 167.171, notification of criminal
105 conduct to law enforcement authorities under sections 167.115 to 167.117,
106 academic assessment under section 160.518, transmittal of school records under
107 section 167.020, and the minimum number of school days and hours required
108 under section 160.041;

109 (3) Except as provided in sections 160.400 to 160.420, be exempt from all
110 laws and rules relating to schools, governing boards and school districts;

111 (4) Be financially accountable, use practices consistent with the Missouri
112 financial accounting manual, provide for an annual audit by a certified public
113 accountant, publish audit reports and annual financial reports as provided in
114 chapter 165, provided that the annual financial report may be published on the
115 department of elementary and secondary education's Internet website in addition
116 to other publishing requirements, and provide liability insurance to indemnify the
117 school, its board, staff and teachers against tort claims. A charter school that
118 receives local educational agency status under subsection 6 of this section shall

119 meet the requirements imposed by the Elementary and Secondary Education Act
120 for audits of such agencies. For purposes of an audit by petition under section
121 29.230, a charter school shall be treated as a political subdivision on the same
122 terms and conditions as the school district in which it is located. For the
123 purposes of securing such insurance, a charter school shall be eligible for the
124 Missouri public entity risk management fund pursuant to section 537.700. A
125 charter school that incurs debt must include a repayment plan in its financial
126 plan;

127 (5) Provide a comprehensive program of instruction for at least one grade
128 or age group from kindergarten through grade twelve, which may include early
129 childhood education if funding for such programs is established by statute, as
130 specified in its charter;

131 (6) (a) Design a method to measure pupil progress toward the pupil
132 academic standards adopted by the state board of education pursuant to section
133 160.514, collect baseline data during at least the first three years for determining
134 how the charter school is performing and to the extent applicable, participate in
135 the statewide system of assessments, comprised of the essential skills tests and
136 the nationally standardized norm-referenced achievement tests, as designated by
137 the state board pursuant to section 160.518, complete and distribute an annual
138 report card as prescribed in section 160.522, which shall also include a statement
139 that background checks have been completed on the charter school's board
140 members, report to its sponsor, the local school district, and the state board of
141 education as to its teaching methods and any educational innovations and the
142 results thereof, and provide data required for the study of charter schools
143 pursuant to subsection 4 of section 160.410. No charter school will be considered
144 in the Missouri school improvement program review of the district in which it is
145 located for the resource or process standards of the program.

146 (b) For proposed high risk or alternative charter schools, sponsors shall
147 approve performance measures based on mission, curriculum, teaching methods,
148 and services. Sponsors shall also approve comprehensive academic and
149 behavioral measures to determine whether students are meeting performance
150 standards on a different time frame as specified in that school's charter. Student
151 performance shall be assessed comprehensively to determine whether a high risk
152 or alternative charter school has documented adequate student progress. Student
153 performance shall be based on sponsor-approved comprehensive measures as well
154 as standardized public school measures. Annual presentation of charter school

155 report card data to the department of elementary and secondary education, the
156 state board, and the public shall include comprehensive measures of student
157 progress.

158 (c) Nothing in this paragraph shall be construed as permitting a charter
159 school to be held to lower performance standards than other public schools within
160 a district; however, the charter of a charter school may permit students to meet
161 performance standards on a different time frame as specified in its charter;

162 (7) Assure that the needs of special education children are met in
163 compliance with all applicable federal and state laws and regulations;

164 (8) Provide along with any request for review by the state board of
165 education the following:

166 (a) Documentation that the applicant has provided a copy of the
167 application to the school board of the district in which the charter school is to be
168 located, except in those circumstances where the school district is the sponsor of
169 the charter school; and

170 (b) A statement outlining the reasons for approval or disapproval by the
171 sponsor, specifically addressing the requirements of sections 160.400 to 160.420
172 and 167.349.

173 6. The charter of a charter school may be amended at the request of the
174 governing body of the charter school and on the approval of the sponsor. The
175 sponsor and the governing board and staff of the charter school shall jointly
176 review the school's performance, management and operations at least once every
177 two years or at any point where the operation or management of the charter
178 school is changed or transferred to another entity, either public or private. The
179 governing board of a charter school may amend the charter, if the sponsor
180 approves such amendment, or the sponsor and the governing board may reach an
181 agreement in writing to reflect the charter school's decision to become a local
182 educational agency for the sole purpose of seeking direct access to federal grants.
183 In such case the sponsor shall give the department of elementary and secondary
184 education written notice no later than March first of any year, with the
185 agreement to become effective July first. The department may waive the March
186 first notice date in its discretion. The department shall identify and furnish a list
187 of its regulations that pertain to local educational agencies to such schools within
188 thirty days of receiving such notice.

189 7. (1) A sponsor shall revoke a charter or take other appropriate remedial
190 action, which may include placing the charter school on probationary status, at

191 any time if the charter school commits a serious breach of one or more provisions
192 of its charter or on any of the following grounds: failure to meet academic
193 performance standards as set forth in its charter, failure to meet generally
194 accepted standards of fiscal management, failure to provide information necessary
195 to confirm compliance with all provisions of the charter and sections 160.400 to
196 160.420 and 167.349 within forty-five days following receipt of written notice
197 requesting such information, or violation of law.

198 (2) The sponsor may place the charter school on probationary status to
199 allow the implementation of a remedial plan, which may require a change of
200 methodology, a change in leadership, or both, after which, if such plan is
201 unsuccessful, the charter may be revoked.

202 (3) At least sixty days before acting to revoke a charter, the sponsor shall
203 notify the governing board of the charter school of the proposed action in
204 writing. The notice shall state the grounds for the proposed action. The school's
205 governing board may request in writing a hearing before the sponsor within two
206 weeks of receiving the notice.

207 (4) The sponsor of a charter school shall establish procedures to conduct
208 administrative hearings upon determination by the sponsor that grounds exist to
209 revoke a charter. Final decisions of a sponsor from hearings conducted pursuant
210 to this subsection are subject to judicial review pursuant to chapter 536.

211 (5) A termination shall be effective only at the conclusion of the school
212 year, unless the sponsor determines that continued operation of the school
213 presents a clear and immediate threat to the health and safety of the children.

214 (6) A charter sponsor shall make available the school accountability report
215 card information as provided under section 160.522 and the results of the
216 academic monitoring required under subsection 3 of this section.

217 8. A sponsor shall take all reasonable steps necessary to confirm that each
218 charter school sponsored by such sponsor is in material compliance and remains
219 in material compliance with all material provisions of the charter and sections
220 160.400 to 160.420 and 167.349. Every charter school shall provide all
221 information necessary to confirm ongoing compliance with all provisions of its
222 charter and sections 160.400 to 160.420 and 167.349 in a timely manner to its
223 sponsor.

224 9. A school district may enter into a lease with a charter school for
225 physical facilities.

226 10. A governing board or a school district employee who has control over

227 personnel actions shall not take unlawful reprisal against another employee at
228 the school district because the employee is directly or indirectly involved in an
229 application to establish a charter school. A governing board or a school district
230 employee shall not take unlawful reprisal against an educational program of the
231 school or the school district because an application to establish a charter school
232 proposes the conversion of all or a portion of the educational program to a charter
233 school. As used in this subsection, "unlawful reprisal" means an action that is
234 taken by a governing board or a school district employee as a direct result of a
235 lawful application to establish a charter school and that is adverse to another
236 employee or an educational program.

237 11. Charter school board members shall be subject to the same liability
238 for acts while in office as if they were regularly and duly elected members of
239 school boards in any other public school district in this state. The governing
240 board of a charter school may participate, to the same extent as a school board,
241 in the Missouri public entity risk management fund in the manner provided
242 under sections 537.700 to 537.756.

243 12. Any entity, either public or private, operating, administering, or
244 otherwise managing a charter school shall be considered a quasi-public
245 governmental body and subject to the provisions of sections 610.010 to 610.035.

246 13. The chief financial officer of a charter school shall maintain:

247 (1) A surety bond in an amount determined by the sponsor to be adequate
248 based on the cash flow of the school; or

249 (2) An insurance policy issued by an insurance company licensed to do
250 business in Missouri on all employees in the amount of five hundred thousand
251 dollars or more that provides coverage in the event of employee theft.